



architects

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SUMMER 2005

Distinguished Service Award

Board Member Recognized with Octavius Morgan Award



As Merlyn Isaak, a former member of the California Architects Board (CAB), prepares to move to Oregon, the Board announced that he is being recognized with a 2004 Octavius Morgan Distinguished Service Award. "We felt that Merlyn deserved this award for his many years of volunteer service after being a public member of the Board," says Board president Jeffrey Heller.

Isaak's path to service with CAB was different than most individuals. Years ago, as he was finishing high school, Isaak was interested in becoming an architect. However, he lived in a small South Dakota town, and the only nearby universities that offered such degrees were out-of-state and therefore cost-prohibitive. Isaak chose instead to attend South Dakota State College. He graduated in 1957 with a degree in civil engineering (with a structures option). "Although I was getting my degree in engineering, my interest in architecture remained," Isaak says. "While I was in college, I designed a home for my parents, which they built and lived in for many years."

Following graduation, Isaak relocated to Los Angeles, where he worked for Northrop Aircraft. "I moved around a bit those first few years," Isaak says. "After

some time as a Plan Checker for the San Diego Building Inspection Department and back in aerospace, I found the perfect fit at Testing Engineers."

Testing Engineers performs building inspections and testing primarily for large commercial structures. Isaak became branch manager of the San Jose office and later president of the company. One project the firm worked on was researching the causes of the 1981 Kansas City Hyatt Regency skywalk collapse. Isaak remained with Testing Engineers for 25 years until his retirement.

"During my first few years at Testing Engineers, I became acquainted with many architects in the Bay Area, and this furthered my interest in the profession." In 1985, Governor George Deukmejian appointed Isaak as a public member of CAB. Because of Isaak's background, the

Board's Regulatory and Enforcement Committee (REC) was a logical place for him to serve. He continued to serve on that Committee after his two terms as a Board member expired.

In addition to his work on the REC, Isaak served on the Associations and Advertising Task Force, the Enforcement Case Review Panel, and the Task Force on Post-Licensure Competency. He also served on the Complaint Disclosure Task Force. "I think CAB serves the public in a meaningful way," Isaak says. "The Board is very successful in dealing with people who are not performing up to the proper professional standards or are performing illegally. I am extremely impressed with the Board's staff. They are an outstanding group of hardworking individuals, and the public is well served."

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President's Message

By Jeffrey D. Heller, FAIA, Board President

Progress in Achieving 2005 Goals

I am pleased to report to you that the California Architects Board (CAB) feels that the various Sunset issues have been resolved for at least the near future, and we see clear sailing towards our main goals for this year. First, we are making progress in our efforts with the National Council of Architectural Registration Boards (NCARB) to further promote quality examinations and internship programs and processes in the profession. Second, we are continuing to focus on architectural education through our preparations for our workshop with educators and practitioners later this fall.

At the Western Conference of Architectural Registration Boards' meeting this year, we sponsored a successful bylaws amendment to require that the chair and vice chair of the region be elected by the region's 13 members. The previous system required the leadership to garner just three votes on the Executive Committee in order to elect the chair and vice chair. We were also successful in securing CAB member Denis Henmi's election to the Executive Committee. CAB is pleased to have one of our members participate in the regional leadership.

At the national level, CAB sponsored two resolutions. One would have required NCARB to examine its system of governance to ensure that its structure be effective, representative, communicative, open, and diverse. The other would have required that NCARB examine the ramifications of the recent changes to the National Architectural Accrediting Board's (NAAB) Student Performance Criteria. We were able to withdraw the governance proposal because NCARB has acknowledged that our concerns will be addressed via a newly created Governance Task Force. Further, we are pleased that Denis Henmi has been appointed to the Governance Task Force. The NAAB-related resolution did not pass, but it stimulated healthy debate concerning the NAAB Student Performance Criteria.

On the education front, we are sponsoring an Architectural Educators/Practitioners Workshop this fall. The workshop will focus on how schools are preparing students for internship and the impact of the NAAB Student Performance Criteria. This discussion will follow-up on previous education forums and build upon the Board's work in implementing our structured internship program. We look forward to thoughtful dialogue and continuing our work to help students on the path to licensure.

If you have any issues or concerns that you think should be addressed, we would like your input. Please email us at cab@dca.ca.gov.

Octavius Morgan Award

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When asked how he felt about receiving the Octavius Morgan award, Isaak said, "I am just overwhelmed. I was speechless when I was told, as I had no idea this was in the works. My experience with CAB over the years has been very satisfying."

Although he is now retired from Testing Engineers, Isaak continues to consult on construction-related materials problems. He is a Fellow of the American Concrete Institute (ACI) and an Examiner for shotcrete nozzelman certifications. As he and his wife Faye move to Oregon, Isaak hopes to devote more time to his hobbies, which include playing the cornet (trumpet), singing in his church choir, and woodworking. "I also enjoy photography, although I haven't kept up with the new digital technology," Isaak says.

And even when he is fully retired, Isaak's longstanding interest in construction materials and architecture will endure. "My wife says I can spot cracks in concrete going 65 miles an hour down the freeway, and I am constantly offering commentary on architectural performance."



ARE Five-Year Rolling Clock Begins 2006

At its 2004 Annual Meeting, the National Council of Architectural Registration Boards (NCARB) passed a resolution creating a national five-year rolling clock for the validity of Architect Registration Examination (ARE) scores.

NCARB made the decision to implement a rolling clock because the practice of architecture changes over time and the ARE content, format, and administration can change as well. According to NCARB's Procedures and Documents Committee, "Requiring that all divisions be passed within a reasonable period will better assure that the ARE remains a valid measure of the level of competence necessary to independently practice architecture."

Under the requirements of the rolling clock, which will be officially implemented on January 1, 2006, candidates for the ARE must pass all nine divisions of the exam within a five-year period. NCARB has established an exemption provision for candidates who were in the exam process prior to 2006 and have passed one or more ARE divisions.

Following are explanations of how the new requirement will apply to individuals at various stages of ARE completion:

- **Candidates who have passed all divisions of the ARE by January 1, 2006:** These candidates will not be subject to the rolling clock requirement, regardless of when each division was taken.
- **Candidates who have passed one or more divisions of the ARE (but not all divisions) by January 1, 2006:** These candidates will have five years to pass the remaining divisions. The five-year period commences after

January 1, 2006 on the date the candidate takes (and passes) the first division. A passing grade for any of these remaining divisions will be valid for five years. Once candidates take (and pass) their last division, they must retake any division they took both after January 1, 2006 and more than five years prior to the date on which the last division was passed. *Those divisions candidates took (and passed) prior to January 1, 2006 will not have to be retaken.*

- **Candidates who have not passed any division of the ARE by January 1, 2006:** Such candidates are fully governed by the five-year rolling clock requirement. The five-year period commences on the date the candidate takes (and passes) his or her first division, and it applies to all divisions.

A Practical Illustration of the Rolling Clock

To better understand how the rolling clock works, consider the following scenario. (Specific divisions are used for illustrative purposes only.) A candidate takes (and passes) the Lateral Forces division on May 31, 2006, then takes (and passes) the General Structures division on June 27, 2007. Over the next few years, the candidate passes nearly all remaining divisions, but does not take and pass the last division until after May 31, 2011. The score for the Lateral Forces division taken on May 31, 2006 would be invalidated, and the candidate would need to retake *only* that division. The candidate would not be required to retake *all* previously passed divisions, just the one that he or she took more than

five years prior to the date on which the last division was taken (and passed). The candidate would need to retake (and pass) the Lateral Forces division before June 27, 2012 in order for the score on the General Structures division (taken on June 27, 2007) to remain valid. In this way, the candidate will successfully complete all ARE divisions within a five-year period.

CAB's Implementation of the Rolling Clock

At its March 2005 meeting, the California Architects Board's Professional Qualifications Committee reviewed NCARB's five-year rolling clock requirement. The Committee recommended to the Board that the regulations be amended to incorporate the five-year rolling clock provision. The proposed regulations will state that the candidates will be given *conditional* credit on ARE divisions passed January 1, 2006 or later that will expire and become invalid if all other ARE divisions are not passed within five years from the date the first division was taken (passed). Credit for divisions passed prior to January 1, 2006 will be retained. The Board gave preliminary approval of the proposed regulatory changes at its June 2005 meeting. Upon conclusion of the formal rulemaking process the requirement will be effective January 1, 2006.

Please refer to the News section of NCARB's Web site at www.ncarb.org for the August 2004 official news release about the five-year rolling clock.



Future AIA President Looks Ahead

At the AIA National Convention, held in Las Vegas this May, members elected current AIA vice president RK Stewart, FAIA to serve as first vice president/president elect in 2006 and as president in 2007. Stewart is a principal at the San Francisco firm, Gensler Architecture, Design & Planning Worldwide.

When Stewart begins his term as AIA president in 2007, the Institute will be celebrating its 150th anniversary. He believes that milestone presents a unique opportunity to look back at where the profession and AIA have been, but more importantly, to look forward to where they are heading.

"The Native American leader Chief Seattle said we should always be thinking seven generations ahead," Stewart says. "That concept fits with our 150th anniversary, because we are seven generations from AIA's founding, and now we need to look forward to the next seven generations." As Stewart plans his term, he has a clear sense of how the AIA can shape the future of the profession to enhance architects' ability to contribute to the creation of memorable environments in which people live, work, and play.

Goals for Shaping the Future

One of Stewart's goals is to explore ways to reinvigorate the profession through the next generation of architects. "The number of architects being licensed in California has declined, but the role we play in society has increased," Stewart notes. "Specifically, with quality of life issues a major concern, the need for skilled architects is more important than ever. We need to ensure that a pool of licensed professionals is available to meet the needs of society."

A second goal relates to the California Architects Board's (CAB) charge to protect the health, safety, and welfare of the public. Stewart would like to see the profession better implement what is known about the capacity for sustainable

design to address quality of life issues. This includes not only resource consumption, but also recent information from the Centers for Disease Control about the health impact of sustainable design. "There are enormous implications that are not always obvious," Stewart says. "For example, there can be productivity gains as a result of decreased worker absences because of an improved environment." Stewart hopes to work with California's Public Health Officer, as well as others who are interested in protecting the public's health and welfare.

Stewart also plans to stress the importance of collaboration between clients, contractors, and building officials in creating the built environment. "We need to better apply all the knowledge we have, rather than having it segmented because of artificial barriers."

Responding to the Needs of Emerging Professionals


According to Stewart, the education of future architects is a key area in which the profession needs to look ahead. He chaired the Comprehensive Intern Development Program (CIDP) Task Force in 2001, and served on the Intern Development Program (IDP) Implementation Task Force. In designing CIDP, Stewart says the task force sought to address three concerns of emerging professionals: making sure that their required experience is relevant to 21st century practice, that the duration of the program is appropriate, and that meaningful interactions occur between supervisors and interns. Stewart continues to serve as a member of the Board's

Professional Qualifications Committee overseeing CIDP / IDP's implementation statewide.

Stewart notes that the process of planning and designing CIDP and implementing National Council of Architectural Registration Boards' (NCARB) IDP in California took many years. He believes that the end result of that extensive process is a valuable part of training for the emerging professional. "Because of the complexity of architecture, the education process alone cannot prepare an individual for practice. CIDP helps interns make the transition from school to licensure. It guides them and provides a roadmap for tracking their own progress. And, it is a valuable tool for stimulating conversations with supervisors and mentors as the interns gain valuable experience."

AIA has an important role in collaborating with both CAB and NCARB regarding the realities of modern-day practice. "We are committed to working together with the regulatory community to be sure that standards are clear, consistent, and transportable," Stewart says. He points out that the current configuration of IDP was developed in the 1970s and is more reflective of practice in the latter part of the last century. "Although the content of the internship program hasn't changed much since its inception in 1976, practice has changed a great deal. Architects use different tools, they are involved in different kinds of activities, and they work with different delivery systems. We hope to evolve the intern process on a national level, so that it reflects the realities of 21st century practice."

Stewart is encouraged by the fact that the IDP Coordinating Committee (IDPCC) has prepared a proposal to study the long-term issues of the program. The collaterals will be examining the proposal as an IDPCC activity for next year. The IDPCC is co-chaired by AIA and NCARB with participation from the Association of Collegiate Schools of Architecture, The American Institute



of Architecture Students, and the Society of Design Administrators.

Stewart has had a longstanding interest in the issues of emerging professionals. Last year, he contributed to the Emerging Professional's Companion, which is now available on the AIA Web site. "The preparation and availability of this resource reflects the evolutionary changes occurring in the profession as well as the value of AIA and NCARB working together to improve the intern experience," Stewart says. "AIA has also assumed responsibility for the IDP Mentor Guidelines. We are in the process of updating them and shifting to a Web-based delivery model. It's just one more way we are moving into the future and acknowledging that today's interns seek information in different ways than interns of the past."

Facilitating the Sharing of Experiences

Another way in which the profession can look ahead is by enhancing architects' ability to connect with colleagues in order to share local successes. "I look forward to working with local, state, and regional component leaders, as well as the national board to seek opportunities to impact change," Stewart says. "My role is to connect design professionals who have had successes with certain practices or methodologies to those professionals who can utilize them. By doing so, we can inspire people to achieve more in their own communities than they thought possible."

Stewart brings decades of experience and knowledge to his position as AIA president. In addition to involvement with CAB, Stewart served two terms as AIA national vice president and as a California regional director to the national board. He also served as president of AIA San Francisco, and as president of AIA California Council. Stewart received CAB's 2002 Octavius Morgan Distinguished Service Award in recognition of his volunteer service to the Board as well as his commitment to strengthening the professional community.



Legislative Update

Several Bills Relating to Architects Being Considered


The legislative session is in high gear and the Board is following the progress of a number of measures that are being considered.

The American Institute of Architects, California Council (AIACC) is sponsoring legislation to clarify the Board's existing statute concerning the reporting of settlements and arbitration awards. The language is modeled after a section of the Engineer's Act, and may be inserted into a committee bill.

Assembly Bill (AB) 446 introduced by Assembly Member Negrete McLeod (D-Chino) would prohibit any licensee regulated by a board or program of the Department of Consumer Affairs from inserting a provision in a settlement agreement prohibiting the plaintiff from either: 1) subsequently contacting, filing a complaint, or cooperating with the board, or 2) withdrawing an existing complaint from the Department.

AB 1561, authored by Tom Umberg (D-Santa Ana) expresses the intent of the Legislature to implement procedures providing for the imposition of penalties, removal from office, or both, for appointed members of state boards and commissions who do not adequately perform their duties, including regular attendance at meetings.


The Board has language in Senate Bill 1112 to change the date that Board members' terms expire so it coincides with the annual meeting cycle of the National Council of Architectural Registration Boards (NCARB). Under current law, terms expire June 1, thereby precluding the Board's most experienced members from participating in NCARB's annual meeting at the end of their term.



In 1996, the Architects Practice Act began requiring architects to use a written contract. The original purpose and intent of the statute was to protect both the client/consumer and the architect. At the time, disputes sometimes occurred between parties in instances when there was no contract or understanding of mutual intent. Civil laws

When Can Architects Proceed Without a Written Contract?

Clarifying Written Contract Requirements



that governed contracts applied in these disputes. However, it was determined that both parties would be better served by the execution of a written contract prior to the commencement of architectural services, and this higher standard was adopted.

Business and Professions Code section 5536.22 states that when contracting to provide professional services, architects must use a written contract, executed (signed) by both parties (architect and client) prior to commencing services. This contract must contain at least five basic elements. Under four specific conditions, a written contract is not required by statute. For a full description of these elements and conditions, see the code section mentioned above. The entire code can be found at our Web site, www.cab.ca.gov.

One of the most frequently misunderstood portions of section 5536.22 states that the written contract must be executed prior to commencing work, *“...unless the client **knowingly states in writing** that work may be commenced before the contract is executed.”* While most licensees understand this statute, some confusion seems to exist over what constitutes the written authorization or notice to proceed with the work prior to the execution of a written contract. Specifically, some architects may believe

the client's deposit/retainer check constitutes such “writing.” CAB's enforcement interpretation is that a deposit/retainer check, in and of itself, does not comply with the statute, its spirit, or intent.

What should architects do when a client requests that they proceed “immediately” and offers a deposit/retainer check, but for whatever reason is not ready, willing, or able to sign a contract? The simplest and most straightforward solution is for the client to sign and date a document acknowledging his or her right to have a signed written contract prior to the commencement of professional services, but authorizing the architect to proceed before the contract is signed. This does not require a lengthy or complicated document.

There can be many sound reasons for delays in formally executing a contract, especially in governmental and large corporation projects. However, if a client is unwilling to sign a contract or an authorization to proceed, an architect cannot provide professional services. In addition, good “business judgment” should be called upon and one might ask, “Is this a real project opportunity?”

The code does allow the client to waive the contract requirement in its entirety. One way is for the client to knowingly state in writing, after full disclosure of section 5536.22's contract requirement, that a contract is not required.

The statute has served architects and consumers well. As we enter the tenth year of the statute's existence, every licensee should remember that it was added to the Architects Practice Act not only to protect clients/consumers, but to protect the practicing architect as well. As one of the learned professions, we hold ourselves to a high standard. The statutory requirement for a written contract is an example of our professional standard being higher than general contract law.



Enforcement Actions

CAB is responsible for receiving and investigating complaints against licensees and unlicensed persons. CAB also retains the authority to make final decisions on all enforcement actions taken against its licensees. Included below is a brief description of recent enforcement actions taken by CAB against individuals who were found to be in violation of the Architects Practice Act. Every effort is made to ensure the following information is correct. Before making any decision based upon this information, you should contact CAB. Further information on specific violations may also be obtained by contacting the Board's Enforcement Unit at (916) 445-3394.

CITATIONS

RICHARD C. DIRADOURIAN (Montrose) The Board issued an administrative citation that included a \$2,000 civil penalty to Richard C. Diradourian, architect license number C-10336, for violations of Business & Professions Code (BPC) sections 5536.22(a) (Written Contract) and 5584 (Negligence). The action was taken based on evidence that Diradourian provided professional services without executing a written contract. During the construction phase of the project, for which he was the General Contractor, Diradourian left the client's house exposed and open to water intrusion. Substantial damage resulted to the residence when a large storm inundated the property. Diradourian agreed in writing to repair the water damage, including removal of the mold infestation that followed the water damage, however, he failed to do so. Diradourian paid the civil penalty satisfying the citation. The citation became effective on May 19, 2005.

JOHN BENJAMIN FRIEDMAN (West Hills) The Board issued an administrative citation that included a \$100 civil penalty to John Benjamin Friedman, architect license number C-9167, for a violation of BPC section 5536.22 (Written Contract). The action was taken based on evidence that Friedman provided a complete set of architectural drawings for a restaurant without executing a written contract. The citation became effective on May 26, 2005.

TROYER SCOTT MACGILLIVRAY (Los Angeles) The Board issued an administrative citation that included a \$500 civil penalty to Troyer Scott MacGillivray, architect license number C-9504, for a violation of BPC section 5536.22 (Written Contract). The action was taken based on evidence that MacGillivray commenced providing architectural services without an executed written contract. The subject appealed the citation and both an informal conference and an administrative hearing was held. A proposed decision submitted from the Administrative Law Judge was received

by the Board affirming the citation. The Board voted to adopt the proposed decision except that due to mitigating circumstances, the proposed penalty was reduced from \$500 to \$50. MacGillivray paid the civil penalty satisfying the citation. The citation became effective on April 29, 2005.

MARILOU SAMSON (San Francisco) The Board issued an administrative citation that included a \$500 civil penalty to Marilou Samson, an unlicensed individual, for violations of BPC sections 5536(a) and 5536.1(c) (Practice Without License or Holding Self Out as Architect). The action was taken based on evidence that Samson entered into a contract to prepare "As-built plans, Design Development Drawing requirements for the application of City Planning Variance," and then performed the design development phase of work for a three-story building over a garage, which is a non-exempt project. Samson paid the civil penalty satisfying the citation. The citation became effective on April 27, 2005.

CHIEN YEH (Covina) The Board issued an administrative citation that included a \$500 civil penalty to Chien Yeh, architect license number C-22638, for violations of BPC sections 5536(a) and (b) (Practice Without License or Holding Self Out as Architect). Yeh's license expired on March 31, 2001 and was not renewed. The action was taken based on evidence that while Yeh's license was expired, he submitted plans to the building department which included a stamp that read "LICENSED ARCHITECT," "CHIEN YEH," "C-22638," "RENEWAL DATE 3-31-2005," and the legend "STATE OF CALIFORNIA." The plans also contained a title block which stated "CHIEN YEH ARCHITECT." The citation became effective on January 31, 2005.

CONSUMER'S GUIDE TO HIRING AN ARCHITECT

Consumer's Guide Updated

To protect and inform California consumers, the California Architects Board recently updated the *Consumer's Guide to Hiring an Architect*. The Board produced this guide to help the general public understand the complex nature of architectural services. This guide provides information on:



- What types of projects require a licensed architect;
- How to find and select an architect;
- What the written contract between a consumer and an architect should contain; and,
- How to manage budgeting and construction during a project.

The *Consumer's Guide to Hiring an Architect* can be accessed on our Web site at www.cab.ca.gov under Online Publications.

To obtain a hard copy, please contact the Board at (916) 445-3394 or by email at cab@dca.ca.gov.

architects

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CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

ARE FEE INCREASE

After eight years of delivering the computerized Architect Registration Examination (ARE), the National Council of Architectural Registration Boards (NCARB) implemented a \$10 per division fee increase effective July 1, 2005.

While NCARB previously restructured the ARE fees, this represents the first increase in the overall cost of the computerized ARE to candidates since its introduction in 1997. According to NCARB, the increase will help defray future exam development expenses and reduce the subsidy currently underwritten by NCARB Certificate Holders. The fee increase applies to divisions scheduled and paid for after July 1, 2005. Fees collected prior to July 1, 2005 are not affected. The fee to reschedule an appointment remains \$35.

Effective July 1, 2005, fees for the ARE divisions are as follows:

DIVISION	NEW FEE
Multiple-Choice Divisions	
Pre-Design	\$102
General Structures	\$102
Lateral Forces	\$102
Mechanical & Electrical Systems	\$102
Building Design / Materials & Methods	\$102
Construction Documents & Services	\$102
Graphic Divisions	
Site Planning	\$153
Building Planning	\$153
Building Technology	\$153

To Get In Touch With Us

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